



July 16, 2018

Mr. Matt Sloan
DI Development Company, LLC
230 Seven Farms Drive, Suite 201
Charleston, SC 29492

Re: Cainhoy Plantation, SAC-2016-756

Dear Dr. Sloan:

The SC Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management (SCDHEC OCRM) is currently in review of the referenced permit application submitted by DI Development Company, LLC to the U.S. Army Corps of Engineers for 187.90 acres of impacts to Waters of the U.S., Waters of the State, and Critical Area for the development of the 9,375 acre tract of land known as Cainhoy Plantation. The proposed development includes the construction of a mixed-use community including residences, commercial businesses, restaurants, public facilities, schools, parks, and office space.

As South Carolina's coastal management agency, SCDHEC OCRM is responsible for ensuring a project's consistency with the federally approved South Carolina Coastal Zone Management Program's (SCCZMP) general guidelines and enforceable policies. Pursuant to Title 15 CFR 930.62(b), three months have elapsed since SCDHEC OCRM has begun its review of the above referenced project. Currently, the project is still under SCCZMP consistency review. We are delayed in concluding the review of the proposed project, not including the proposed impacts to the critical area, by the following concerns:

GAPCs:

Archaeological Coastal Resources:

- Brockington and Associates' Cultural Resource Final Report submission to the State Historic Preservation Office (SHPO) and the U.S. Army Corps of Engineers (USACOE) of relative findings and proposed mitigation for sites eligible for the National Register. Coordination among the Department, the SHPO, and the USACOE is required upon the SHPO's acceptance of the final report.

Threatened or Endangered Species Habitat:

- Section 7a(2) consultation review with regards to the federally endangered red-cockaded woodpecker (*Picoides borealis*) and pondberry (*Lindera melissifolia*) both observed on Cainhoy Plantation.
- Considerations/precautions for any 'at risk' species and habitat that may become listed during the course of development.
- Consideration to potential future designation of critical habitat within the project area. For example, although not currently observed, Cainhoy Plantation has been found to have suitable habitat for the frosted flatwood salamander (*Ambystoma cingulatum*). Restoration as proposed will also enhance its suitable habitat. Section 4(b)(2) of the Endangered Species Act states that the Secretary shall designate and make revisions to a critical habitat on the basis of the best available scientific data after taking into consideration the economic impact of specifying any particular area as critical habitat.
- Consideration to SCDNR's request for additional coordination as requested for items listed in the summary of their comment letter dated May 3, 2018.

Shellfish:

- Consideration to adjacent shellfish lease waters. SCCZMP identifies shellfish areas with commercial and recreational shellfish leases/permits and other State managed shellfish grounds as a GAPC. SCDNR currently has oyster restoration sites located within the Cainhoy vicinity within the Wando and Cooper Rivers, also considered a GAPC. Activity and development within or directly adjacent to these shellfish waters must not reduce or degrade water quality.

Wetlands:

Alternatives Analysis:

- Response to U.S. Fish and Wildlife Service's (USFWS) comment letter dated May 17, 2018 that found the Alternative Analysis inconsistent with the intent of the National Environmental Protection Act (NEPA) in that it appears to have been conducted with the designed intent of Cainhoy Plantation as the only viable option for the tri-county area for the mixed-use development.

Impacts Avoidance and Minimization:

- Avoidance and minimization with regards to wetland impacts are required through the applicable enforceable policies of the SCCZMP including the Residential Development, Commercial Development, Transportation Facilities, and Public Services and Facilities. More specifically, but not limited to within the following areas CHLT Area 10, CHLT Area 8, Tract 1 South Area 3, Seven Sticks Area 8.

Mitigation:

- Will the site be subdivided into development parcels or phases as requested by the Corps? If so how is mitigation for each parcel/phase under the current review being adequately accounted?
- Will mitigation for each parcel/phase be determined for the most potential impact?
- Mitigation must be executed prior to proposed impact within each parcel/phase and be achieved independent of the state land disturbance permit process for the associated parcel/phase.
- How will the Department be notified of fulfillment of phased mitigation?

Impact/Preservation Modifications:

- Consideration to the permit modification review process under parcel/phase subdivision. A permit modifications for a parcel/phase may require an additional Coastal Zone Consistency (CZC) review.
- Consideration for the preservation of upland buffers to lots directly adjacent to critical area. As single-family residences are built will upland buffers be established and preserved. It is my understanding preservation is not present at lots that have potential for future dock build-out.

Stormwater Management:

- What measures will be incorporated to ensure remaining unaltered on-site wetlands and associated buffers will be protected from adverse impacts from stormwater run-off both direct and indirect (sheet flow)?
- SCCZMP requires retention of stormwater runoff that discharges within 1,000 feet of shellfish beds. Portions of the site will have to adhere to this condition depending on discharge location. Stormwater retention feasibility and stormwater management must be considered during the design of the master stormwater management drainage system.
- Avoidance and minimization with regards to wetland impact for the construction of stormwater management infrastructure is required through the applicable enforceable policies of the SCCZMP including the Residential Development, Public Services and Facilities (*Public/Quasi Public Buildings*), and Commercial Development. In relation to those policies, stormwater management within a 1/2 mile to a receiving water body becomes required for wet ponds, therefore avoidance and minimization to wetland impacts apply for stormwater management design.

Flood Hazards:

- Consideration to fill, elevation, and development design in flood prone areas.

Wildlife and Fisheries Management:

Point Hope Sanctuary:

- SCCZMP's Wildlife and Fisheries Management policy requires wildlife and fisheries habitats be maintained in a healthy and viable condition and enhanced to the maximum extent possible. The proposed Point Hope Sanctuary will be required to meet the conditions of this policy as it has been incorporated into the project and its intent is to preserve, enhance, and restore ecosystems that currently either support or has the potential to support State and Federally protected and 'at risk' species.
- Considerations made to address specific comments and concerns from resource agencies with regards to the components of the Permittee Responsible Mitigation Plan including monitoring, performance criteria, mitigation work plan, financial assurances, restrictive covenant, and long term management.

Impoundments:

- Consideration that on-site impoundments are maintained in a healthy and viable condition and enhanced to the maximum extent possible. Impoundments are specifically listed under this policy as a habitat for wildlife and fisheries resources.

Bald and Golden Eagle Protection Act:

- Adherence to the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty, and relevant South Carolina laws with regards to the protected Bald Eagle observed on Cainhoy Plantation. Current development scheme shows disturbance within the primary zone.

Additional comments:

- Consideration to conservation recommendation made by the National Marine Fisheries Service (NMFS) in their letter dated May 9, 2018.

Pursuant to Title 15 CFR 930.62(a), the State agency's response must be received within six months following the commencement of the its review. Under this regulation SDHEC must render a decision by September 20, 2018. The Coastal Zone Consistency (CZC) Certification review process can not be rendered as consistent until the comments referenced above have been addressed.

SCDHEC appreciates the coordination and cooperation to ensure the proposed project is conducted in a manner consistent with the SCCZMP. The SCCZMP is located on the OCRM website at <http://www.scdhec.gov/HomeAndEnvironment/Water/CoastalManagement/>. Please let me know if you need any additional clarification and/or have any questions regarding comments made above. I can be contacted at either (843) 953-0702 or koczerc@dhec.sc.gov.

Sincerely,



Christine Koczera
Coastal Zone Consistency Section
SCDHEC Ocean Coastal Resource Management

cc: Ken Smoak, Sabine and Waters
Travis Hughes, U.S. Army Corps of Engineers
Kelly Laycock, U.S. Environmental Protection Agency
Mark Caldwell, U.S. Fish and Wildlife Service
Pace Wilber, U.S. National Marine Fisheries Service
Susan Davis, S.C. Department of Natural Resources
Elizabeth Johnson, S.C. Department of Archives and History
Michele Culbreath, SDCHEC-BOW
Adam Page, SCDHEC-OCRM